

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

TOWN OF CANTON,

Plaintiff,

v.

SELECT ENERGY, INC.,

Defendant.

C.A. 04 11383 RGS

**ASSENTED-TO MOTION TO POSTPONE  
THE INITIAL SCHEDULING CONFERENCE**

Pursuant to Local Rule 7.1, Defendant Select Energy, Inc. ("Select") hereby moves this Court to postpone the Initial Scheduling Conference set for August 9, 2004 for approximately three weeks, until August 30, 2004 or August 31, 2004. There is good cause to support this Motion:

1. Plaintiff Town of Canton ("Town") filed a Complaint in the Massachusetts Superior Court in Norfolk County on May 28, 2004.
2. Select filed a Notice of Removal on June 17, 2004, and removed the action to this Court.
3. On June 22, 2004, Select filed an Answer to the Complaint.
4. On July 13, 2004, the Court issued a Notice of Scheduling Conference setting the Initial Scheduling Conference for August 9, 2004.
5. Unfortunately, lead trial counsel for Select, Timothy W. Mungovan, will be on a long-scheduled family vacation on that date. Mr. Mungovan's vacation plans have already been

interrupted by two other unrelated matters, including, a Final Pre-Trial Conference on July 28, 2004 in the Barnstable County Probate and Family Court and a Final Pre-Trial Conference in the United States District Court for the Southern District of New York on August 6, 2004. It would be an extreme hardship for Mr. Mungovan to lose a third vacation day as a result of attending the Initial Scheduling Conference on August 9, 2004.

6. In addition to accommodating counsel's vacation schedule, this brief postponement of approximately three weeks will provide the parties with sufficient opportunity to comply fully with their Local Rule 16.1 obligations.

7. PLAINTIFF TOWN OF CANTON HAS ASSENTED TO THIS MOTION AND ALL COUNSEL ARE CURRENTLY AVAILABLE ON AUGUST 30 AND 31, 2004.

WHEREFORE, Defendant Select Energy, Inc. respectfully requests that this Court:

1. Postpone the Initial Scheduling Conference until August 30 or 31, 2004; and
2. Grant such other relief as justice requires.

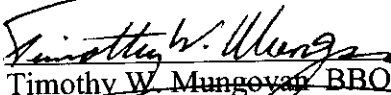
Respectfully submitted,

SELECT ENERGY, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand) on 7/21/04.

By its attorneys,

  
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Dated: July 21, 2004